

# SENATE BILL No. 511

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-1-3-13.5; IC 9-18-3-1; IC 9-24; IC 9-30; IC 14-15-8.

**Synopsis:** Various vehicle and motorboat matters. Removes vehicles owned or leased and used for official business by certain: (1) rehabilitation centers; (2) community action agencies; (3) area agencies of aging and the aged and county councils on aging that are funded through an area agency; and (4) community mental health centers; from exemption from the payment of vehicle registration fees. Provides that a probationary operator's license expires at midnight of the date the holder becomes 21 years and 30 days of age. (Current law provides that the probationary license expires at midnight of the day of the holder's twenty-first birthday.) Removes the requirement that the bureau of motor vehicles place an identifying symbol on the face of the certain permits, licenses, or identification cards to indicate that the applicant has a medical condition. Provides that certain offenses committed under the law of the United States or in another state that are substantially similar to certain offenses committed in Indiana be counted toward an accumulation of offenses for purposes of an individual being adjudged a habitual violator of traffic laws. Includes motorboats in the category of vehicles for which an individual is prohibited from operating while intoxicated. Provides that after June 30, 2009, the penalties for operating a motorboat while intoxicated are the same as for operating a wheeled vehicle while intoxicated, and repeals current law pertaining to operating a motorboat while intoxicated. Makes corresponding changes. Makes technical corrections.

**Effective:** July 1, 2009.

**Charbonneau**

January 15, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 511

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 7.1-1-3-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13.5. "Conviction for operating while intoxicated" means a conviction (as defined in IC 9-13-2-38):

(1) in Indiana for:

(A) an alcohol related or drug related crime under Acts 1939, c.48, s.52, as amended, IC 9-4-1-54 (repealed September 1, 1983), IC 9-11-2 (repealed July 1, 1991), or IC 14-1-5 (repealed July 1, 1995); or

(B) a crime under IC 9-30-5-1 through IC 9-30-5-9 or IC 14-15-8; or

(2) in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a crime described in IC 9-30-5-1 through IC 9-30-5-9, ~~or IC 14-15-8-8. IC 14-15-8-7.7, IC 14-15-8-7.9, or IC 14-15-8-8.1.~~

SECTION 2. IC 9-18-3-1 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2009]: Sec. 1. A vehicle that is owned or leased and used for official business by the following must be registered on a date selected by the bureau but is exempt from the payment of registration fees:

- (1) The state.
- (2) A municipal corporation (as defined in IC 36-1-2-10).
- (3) A volunteer fire department (as defined in IC 36-8-12-2).
- (4) A volunteer emergency ambulance service that:
  - (A) meets the requirements of IC 16-31; and
  - (B) has only members that serve for no compensation or a nominal annual compensation of not more than three thousand five hundred dollars (\$3,500).
- (5) **This subdivision expires December 31, 2009.** A rehabilitation center funded under IC 12-12.
- (6) **This subdivision expires December 31, 2009.** A community action agency (IC 12-14-23).
- (7) **This subdivision expires December 31, 2009.** An area agency of aging and the aged (IC 12-10-1-6) and a county council on aging that ~~is~~ **are** funded through an area agency.
- (8) **This subdivision expires December 31, 2009.** A community mental health center (IC 12-29-2).

SECTION 3. IC 9-24-11-3, AS AMENDED BY P.L.184-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A license issued to an individual less than eighteen (18) years of age is a probationary license.

(b) An individual holds a probationary license subject to the following conditions:

- (1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.
- (2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:
  - (A) is at least twenty-one (21) years of age; and
  - (B) holds a valid operator's license issued under this article; is present in the front seat of the motor vehicle.
- (3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this

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section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) Except as provided in subsection (e), a probationary license issued under this section:

(1) expires at midnight ~~of the twenty-first birthday of the date the holder becomes~~ **twenty-one (21) years and thirty (30) days of age; and**

(2) may not be renewed.

(e) A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 4. IC 9-24-11-5, AS AMENDED BY P.L.184-2007, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsection ~~(i)~~, **(h)**, a permit or license issued under this chapter must contain the following information:

(1) The full legal name of the permittee or licensee.

(2) The date of birth of the permittee or licensee.

(3) The address of the principal residence of the permittee or licensee.

(4) The hair color and eye color of the permittee or licensee.

(5) The date of issue and expiration date of the permit or license.

(6) The gender of the permittee or licensee.

(7) The unique identifying number of the permit or license.

(8) The weight of the permittee or licensee.

(9) The height of the permittee or licensee.

(10) A reproduction of the signature of the permittee or licensee.

(11) If the permittee or licensee is less than eighteen (18) years of age at the time of issuance, the dates on which the permittee or licensee will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age.

(12) If the permittee or licensee is at least eighteen (18) years of

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age but less than twenty-one (21) years of age at the time of issuance, the date on which the permittee or licensee will become twenty-one (21) years of age.

(13) Except as provided in subsection (b) or (c), a digital photograph of the permittee or licensee.

(b) The following permits or licenses do not require a digital photograph:

(1) Temporary motorcycle learner's permit issued under IC 9-24-8.

(2) Motorcycle learner's permit issued under IC 9-24-8.

(c) The bureau may provide for the omission of a photograph or computerized image from any other license or permit if there is good cause for the omission. However, a license issued without a digital photograph must include the language described in subsection ~~(f)~~: **(e)**.

(d) The information contained on the permit or license as required by subsection (a)(11) or (a)(12) for a permittee or licensee who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

~~(e) This subsection applies to a permit or license issued after January 1, 2007. If the applicant for a permit or license submits information to the bureau concerning the applicant's medical condition; the bureau shall place an identifying symbol on the face of the permit or license to indicate that the applicant has a medical condition of note. The bureau shall include information on the permit or license that briefly describes the medical condition of the holder of the permit or license. The information must be printed in a manner that alerts a person reading the permit or license to the existence of the medical condition. The permittee or licensee is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.~~

~~(f)~~ **(e)** Any license or permit issued by the state that does not require a digital photograph must include the statement "May not be accepted by any federal agency for federal identification or any other federal purpose."

~~(g)~~ **(f)** A license or permit issued by the state to an individual who:

(1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;

(2) has a pending application for asylum in the United States;

(3) has a pending or approved application for temporary protected status in the United States;

(4) has approved deferred action status; or

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(5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary license or permit. A temporary license or permit issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the licensee's or permittee's temporary status has been extended.

~~(h)~~ (g) The bureau may adopt rules under IC 4-22-2 to carry out this section.

~~(i)~~ (h) For purposes of subsection (a), an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 5. IC 9-24-16-3, AS AMENDED BY P.L.184-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An identification card must have the same dimensions and shape as a driver's license, but the card must have markings sufficient to distinguish the card from a driver's license.

(b) Except as provided in subsection ~~(g)~~, (f), the front side of an identification card must contain the expiration date of the identification card and the following information about the individual to whom the card is being issued:

- (1) Full legal name.
- (2) The address of the principal residence.
- (3) Date of birth.
- (4) Date of issue and date of expiration.
- (5) Unique identification number.
- (6) Gender.
- (7) Weight.
- (8) Height.
- (9) Color of eyes and hair.
- (10) Reproduction of the signature of the individual identified.
- (11) Whether the individual is blind (as defined in IC 12-7-2-21(1)).
- (12) If the individual is less than eighteen (18) years of age at the time of issuance, the dates on which the individual will become:
  - (A) eighteen (18) years of age; and
  - (B) twenty-one (21) years of age.

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(13) If the individual is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the individual will become twenty-one (21) years of age.

(14) Digital photograph of the individual.

(c) The information contained on the identification card as required by subsection (b)(12) or (b)(13) for an individual who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

~~(d)~~ If the applicant for an identification card submits information to the bureau concerning the applicant's medical condition, the bureau shall place an identifying symbol on the face of the identification card to indicate that the applicant has a medical condition of note. The bureau shall include information on the identification card that briefly describes the medical condition of the holder of the card. The information must be printed in a manner that alerts a person reading the card to the existence of the medical condition. The applicant for an identification card is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.

~~(e)~~ (d) An identification card issued by the state that does not require a digital photograph must include the statement "May not be accepted by any federal agency for federal identification or any other federal purpose.".

~~(f)~~ (e) An identification card issued by the state to an individual who:

- (1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;
- (2) has a pending application for asylum in the United States;
- (3) has a pending or approved application for temporary protected status in the United States;
- (4) has approved deferred action status; or
- (5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary identification card. A temporary identification card issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the holder of the identification card's temporary status has been extended.

~~(g)~~ (f) For purposes of subsection (b), an individual certified as a

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program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 6. IC 9-30-5-3, AS AMENDED BY P.L.126-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), a person who violates section 1 or 2 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating **a vehicle or motorboat** while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 1(b) or 2(b) of this chapter; and

(C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

(b) A person who violates section 1 or 2 of this chapter, or subsection (a)(2) of this section, commits a Class C felony if:

(1) the person has a previous conviction of operating while intoxicated causing death (~~IC 9-30-5-5~~); (**section 5 of this chapter or IC 14-15-8-8.1**); or

(2) the person has a previous conviction of operating while intoxicated causing serious bodily injury (~~IC 9-30-5-4~~); (**section 4 of this chapter or IC 14-15-8-7.9**).

SECTION 7. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or

(3) while intoxicated;

commits a Class D felony. However, the offense is a Class C felony if the person has a previous conviction of operating **a vehicle or motorboat** while intoxicated within the five (5) years preceding the commission of the offense.

(b) A person who violates subsection (a) commits a separate offense

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for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 8. IC 9-30-5-10, AS AMENDED BY P.L.126-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section. The court may require that a period of suspension recommended under this section be imposed, if applicable, before a period of incarceration or after a period of incarceration, or both before and after a period of incarceration, as long as the suspension otherwise complies with the periods established in this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the

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suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- ~~(3) IC 14-15-8-8(b); or~~
- ~~(4) IC 14-15-8-8(c);~~
- (3) IC 14-15-8-7.7;**
- (4) IC 14-15-8-7.9; or**
- (5) IC 14-15-8-8.1;**

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 9. IC 9-30-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "judgment" means:

- (1) a judgment of conviction against the defendant in a felony or misdemeanor case **or, for an offense committed after June 30, 2009, an offense under the law of the United States or in another state that is substantially similar to an offense set forth in section 4(a), 4(b), 16(a), or 17 of this chapter; or**
- (2) a civil judgment against the defendant in an infraction or ordinance proceeding.

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SECTION 10. IC 9-30-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "violation" means:

- (1) a felony, a misdemeanor, or an infraction under the Indiana Code **or, for an offense committed after June 30, 2009, an offense under the law of the United States or in another state that is substantially similar to an offense set forth in section 4(a), 4(b), 16(a), or 17 of this chapter;** or
- (2) a violation of an ordinance of an Indiana political subdivision.

SECTION 11. IC 14-15-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A person who violates this chapter commits a Class C misdemeanor. However, the offense is:

- (1) a Class A misdemeanor if the accident or collision results in an injury to a person;
- (2) a Class D felony if:
  - (A) the accident or collision results in serious bodily injury to a person; or
  - (B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a) or ~~IC 14-15-8-8;~~ **IC 14-15-8-7.7, IC 14-15-8-7.9, or IC 14-15-8-8.1;** or
- (3) a Class C felony if the accident or collision results in the death of a person.

SECTION 12. IC 14-15-8-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.3. (a) **This section applies to offenses committed after June 30, 2009.**

(b) **A person who operates a motorboat with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol per:**

- (1) **one hundred (100) milliliters of the person's blood; or**
- (2) **two hundred ten (210) liters of the person's breath;**

**commits a Class C misdemeanor.**

(c) **A person who operates a motorboat with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:**

- (1) **one hundred (100) milliliters of the person's blood; or**
- (2) **two hundred ten (210) liters of the person's breath;**

**commits a Class A misdemeanor.**

(d) **A person who operates a motorboat with a controlled**

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substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body commits a Class C misdemeanor.

(e) It is a defense to subsection (d) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1-24) who acted in the course of the practitioner's professional practice.

SECTION 13. IC 14-15-8-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) This section applies to offenses committed after June 30, 2009.

(b) Except as provided in subsection (c), a person who operates a motorboat while intoxicated commits a Class C misdemeanor.

(c) An offense described in subsection (b) is a Class A misdemeanor if the person operates a motorboat in a manner that endangers a person.

SECTION 14. IC 14-15-8-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.7. (a) Except as provided in subsection (b), a person who violates section 7.3 or 7.5 of this chapter commits a Class D felony if:

(1) the person has a previous conviction of operating a vehicle or motorboat while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 7.3 or 7.5 of this chapter; or

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 7.3(c) or 7.5(c) of this chapter; and

(C) operated a motorboat in which at least one (1) passenger was less than eighteen (18) years of age.

(b) A person who violates section 7.3 or 7.5 of this chapter or subsection (a)(2) commits a Class C felony if:

(1) the person has a previous conviction of operating while intoxicated causing death (IC 9-30-5-5) or of section 8.1 of this chapter; or

(2) the person has a previous conviction of operating while intoxicated causing serious bodily injury (IC 9-30-5-4) or of section 7.9 of this chapter.

SECTION 15. IC 14-15-8-7.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.9. (a) This section applies to offenses committed after June 30, 2009.

(b) A person who causes serious bodily injury to another person

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1 while operating a motorboat:

2 (1) with an alcohol concentration equivalent to at least  
3 eight-hundredths (0.08) gram of alcohol per:

4 (A) one hundred (100) milliliters of the person's blood; or

5 (B) two hundred ten (210) liters of the person's breath;

6 (2) with a controlled substance listed in schedule I or II of  
7 IC 35-48-2 or its metabolite in the person's body; or

8 (3) while intoxicated;

9 commits a Class D felony. However, the offense is a Class C felony  
10 if the person has a previous conviction of operating a vehicle or  
11 motorboat while intoxicated within the five (5) years preceding the  
12 commission of the offense.

13 (c) A person who violates subsection (b) commits a separate  
14 offense for each person whose serious bodily injury is caused by the  
15 violation of subsection (b).

16 (d) It is a defense under subsection (b)(2) that the accused  
17 person consumed the controlled substance under a valid  
18 prescription or order of a practitioner (as defined in IC 35-48-1)  
19 who acted in the course of the practitioner's professional practice.

20 SECTION 16. IC 14-15-8-8.1 IS ADDED TO THE INDIANA  
21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 2009]: Sec. 8.1. (a) This section applies to  
23 offenses committed after June 30, 2009.

24 (b) A person who causes the death of another person when  
25 operating a motorboat:

26 (1) with an alcohol concentration equivalent to at least  
27 eight-hundredths (0.08) gram of alcohol per:

28 (A) one hundred (100) milliliters of the person's blood; or

29 (B) two hundred ten (210) liters of the person's breath;

30 (2) with a controlled substance listed in schedule I or II of  
31 IC 35-48-2 or its metabolite in the person's blood; or

32 (3) while intoxicated;

33 commits a Class C felony. However, the offense is a Class B felony  
34 if the person has a previous conviction of operating a vehicle or  
35 motorboat while intoxicated within the five (5) years preceding the  
36 commission of the offense, or if the person operated the motorboat  
37 when the person knew that the person's driver's license, driving  
38 privilege, or permit was suspended or revoked for a previous  
39 conviction for operating a vehicle while intoxicated.

40 (c) A person at least twenty-one (21) years of age who causes the  
41 death of another person when operating a motorboat:

42 (1) with an alcohol concentration equivalent to at least

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1           fifteen-hundredths (0.15) gram of alcohol per:

2           (A) one hundred (100) milliliters of the person's blood; or

3           (B) two hundred ten (210) liters of the person's breath; or

4           (2) with a controlled substance listed in schedule I or II of

5           IC 35-48-2 or its metabolite in the person's blood;

6           commits a Class B felony.

7           (d) A person who violates subsection (b) or (c) commits a  
8           separate offense for each person whose death is caused by the  
9           violation of subsection (b) or (c).

10          (e) It is a defense under subsection (b)(2) or(c)(2) that the  
11          accused person consumed the controlled substance under a valid  
12          prescription or order of a practitioner (as defined in IC 35-48-1)  
13          who acted in the course of the practitioner's professional practice.

14          SECTION 17. IC 14-15-8-8.5 IS ADDED TO THE INDIANA  
15          CODE AS A NEW SECTION TO READ AS FOLLOWS  
16          [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) This section applies to  
17          offenses committed after June 30, 2009.

18          (b) A person who is less than twenty-one (21) years of age and  
19          operates a motorboat with an alcohol concentration equivalent to  
20          at least two-hundredths (0.02) gram but less than eight-hundredths  
21          (0.08) gram of alcohol per:

22           (1) one hundred (100) milliliters of the person's blood; or

23           (2) two hundred ten (210) liters of the person's breath;

24          commits a Class C infraction.

25          (c) In addition to the penalty imposed under this section, the  
26          court may recommend the suspension of the driving privileges of  
27          the operator of the motorboat for not more than one (1) year.

28          SECTION 18. IC 14-15-8-8 IS REPEALED [EFFECTIVE JULY 1,  
29          2009].

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